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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

EARL H. MCDONALD,

Case No.

Plaintiff,

v.

DERRICK MC GAVIC dba LAW
OFFICES OF DERRICK MC GAVIC;

Defendant.

COMPLAINT FOR VIOLATIONS OF
FAIR DEBT COLLECTION
PRACTICES ACT; and VIOLATION
OF THE OREGON UNLAWFUL
DEBT COLLECTION PRACTICES
ACT

JURY REQUESTED

JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. §1692k(d), and pursuant to 28 U.S.C. § 1367 for pendent state law claims.
2. This action arises out of Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), as well as other state law tort claims.
3. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendants transact business here.

PARTIES

4. Plaintiff Earl H. McDonald is a natural person who resides in the City of Springfield, in the State of Oregon, and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

5. Defendant Derrick Mc Gavic dba Law Offices of Derrick E. Mc Gavic (hereinafter “Mc Gavic”) is an attorney operating from an address of 1666 W 12th Ave., Eugene, OR 97440 and is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

6. Mc Gavic filed suit against plaintiff on behalf of Capitol One Bank.
7. Mc Gavic sent plaintiff judgment debtor interrogatories.
8. As a part of the judgment debtor interrogatories Mc Gavic claimed the power to have plaintiff held in contempt and jailed if he did not give Mc Gavic permission to contact his employer, bank, mortgage lender, and his creditors and debtors. See Exhibit 1 p. 1-2, 16.
9. As a direct and proximate result of defendants’ actions plaintiff has suffered actual damages in the form of emotional distress, anger, anxiety, worry, frustration, among other negative emotions.

TRIAL BY JURY

10. Plaintiff is entitled to and hereby respectfully demands a trial by jury. US Const. amend. 7. Fed. R. Civ. Pro. 38.

CAUSES OF ACTION

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 *et seq.*

11. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

12. The foregoing acts and omissions of defendant constitute numerous and multiple violations of the FDCPA including, but not limited to, 15 U.S.C. § 1692d, 1692e, 1692e(5), 1692e(10), and 1692f.

13. As a result of defendant's violations of the FDCPA, plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).

COUNT II.

UNLAWFUL DEBT COLLECTION PRACTICES ACT

14. Plaintiff incorporates by reference all of the paragraphs of this Complaint as though fully stated herein.

15. Defendant's actions constitute multiple violations of the UDCPA including but not limited to ORS 646.639(2)(f), (k).

16. As a result of such action plaintiff is entitled to actual damages and punitive damages in an amount to be determined at trial and injunctive relief pursuant to ORS 646.641.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against defendants for:

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 *et seq.*

for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against each and every defendant;

for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against each and every defendant;

for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against each and every defendant;

COUNT II.

UDCPA

ORS 646.639 *et seq*

for an award of actual and punitive damages against each and every defendant in an amount to be determined at trial pursuant to ORS 646.641;

for an order enjoining each and every defendant from violating any provision of the UDCPA pursuant to ORS 646.641;

for attorney fees and the costs of litigation against each and every defendant pursuant to ORS 646.641.

DATED: December 13, 2007

Olsen, Olsen & Daines, LLC

/s/ Keith D. Karnes

Keith D. Karnes, OSB # 03352
Attorney for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION BY PLAINTIFF

I, Earl H. McDonald, swear under penalty of perjury that to the best of my knowledge:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.
6. I have provided my attorneys with true and correct copies of each and every exhibit which has been attached to this Complaint.
7. I have not altered, changed, modified, or fabricated the attached exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

DATED: 12-17-07

/s/ Earl McDonald
Earl H. McDonald